

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

EMERSON REDEVELOPERS URBAN)
RENEWAL, LLC)
) CIVIL ACTION
Plaintiff,) NO.:20-cv-4728-MCA-MAH
)
-vs-)
)
THE BOROUGH OF EMERSON, NEW)
JERSEY and DANIELLE DiPAOLA,)
)
Defendants.)

(VOLUME II)
SWORN DEPOSITION TESTIMONY
OF:
MAYOR DANIELLE DiPAOLA

1
2 TRANSCRIPT of the stenographic notes of
3 the proceedings in the above-entitled matter, as
4 taken by and before LYDIA F. McDONNELL, a Certified
5 Shorthand Reporter and Notary Public of the State of
6 New Jersey, held at the office of SILLS, CUMMIS &
7 GROSS, P.C., The Legal Center, One Riverfront Plaza,
8 Floor 13, Newark, New Jersey, on Monday, May 15,
9 2023, commencing at 10:14 a.m.

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1 A P P E A R A N C E S:

2 SILLS, CUMMIS & GROSS, P.C.

BY: JOSEPH B. FIORENZO, ESQ.

3 -and-

STEPHEN M. KLEIN, ESQ.

4 The Legal Center

One Riverfront Plaza, 13th Floor

5 Newark, New Jersey 07102

973-643-7000

6 jfiorenzo@sillscummis.com

sklein@sillscummis.com

7 Attorneys for the Plaintiff

8 BOTTA ANGELI, LLC

9 BY: CHRISTOPHER C. BOTTA, ESQ.

50 South Franklin Turnpike

10 Ramsey, New Jersey 07446

201-818-6400

11 ccb@bottalaw.com

Attorneys for the Defendants,

12 The Borough of Emerson and Mayor Danielle DiPaola

13 THE LAW OFFICES OF RICHARD MALAGIERE, APC

14 BY: LEONARD E. SEAMAN, ESQ.

250 Moonachie Road, Suite 300A

15 Moonachie, New Jersey 07074

201-440-0675

16 les@malagierelaw.com

Attorneys for the Defendant,

17 Mayor Danielle DiPaola

I N D E X

WITNESS: MAYOR DANIELLE DiPAOLA

DIRECT CROSS REDIRECT RECROSS

MR. FIORENZO 307

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SPECIAL REQUESTS

(No special requests)

MOVE TO STRIKE

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1 M A Y O R D A N I E L L E D i P A O L A,
2 having been duly sworn by the Notary Public,
3 testified as follows:

4 CONTINUED DIRECT EXAMINATION BY MR. FIORENZO:

5 Q. Good morning. I had previously given
6 you instructions for the deposition. I'm not going
7 to repeat those unless you feel the need for me to do
8 that?

9 A. No.

10 Q. No. Okay. All your answers -- you just
11 nodded your head -- has to be verbal. The only
12 instruction I'll remind you of is please allow me to
13 complete my questions before you try to speak.
14 Otherwise, it will be difficult for the reporter
15 taking us both speaking at the same time.

16 When we were here last, I had shown you
17 and read to you a portion of a decision by Judge
18 Harris, which we marked as --

19 MR. FIORENZO: What is it?

20 MR. KLEIN: DD-1.

21 MR. FIORENZO: Pull that up. Just the
22 first page.

23 Q. So DD-1 was a decision of Judge Harris
24 back in 2001, which we discussed, where it makes
25 reference to Emerson as the bastion in exclusionary

1 zoning. Remember going over that last time?

2 A. I guess.

3 Q. You do recall, and of course you're
4 aware, that at some point in time the court was
5 critical of Emerson's lack of compliance with its
6 Constitutional obligation. You were aware of that,
7 correct?

8 A. Yes.

9 Q. Okay. And after this decision rendered
10 by Judge Harris, are you aware of any subsequent
11 rulings that Judge Harris made criticizing Emerson
12 for its noncompliance with its Constitutional
13 obligations?

14 A. Criticizing us?

15 Q. Yeah. Yeah. A decision in which he was
16 critical of Emerson's lack of willingness to fulfill
17 its Constitutional obligation after this initial
18 decision.

19 A. None that I can think of.

20 Q. Okay.

21 MR. FIORENZO: Steve, could you pull
22 up....

23 MR. KLEIN: That will be DD-30.

24 Q. So DD-30 is a transcript of a decision
25 of Judge Harris on March 21, 2002, and it -- the

1 first question: Have you seen this transcript
2 before?

3 A. I don't believe so.

4 Q. Were you made aware of this subsequent
5 decision that was rendered by Judge Harris regarding
6 Emerson's lack of compliance with Mount Laurel?

7 A. I don't recall.

8 MR. FIORENZO: Go to the second page,
9 please, of this exhibit.

10 Q. There are numbered pages here, and when
11 I say "the second page," it's the second page of the
12 exhibit, but it has two different pages on it. So
13 there's a page number 3 of the transcript, and in
14 that, the Judge says, last paragraph at the bottom,
15 quote, In this Mount Laurel II exclusionary zoning
16 and builder's remedy action, I have already
17 determined that Emerson officials have relentlessly
18 preserved and exacerbated economic and class
19 segregation throughout the Borough. There appeared
20 to me to be a remarkably consistent and extreme
21 pattern in exclusionary zoning -- exclusionary
22 efforts characterized by what appears to be
23 developing again. That is, concentrated negative
24 opposition to affordable housing in certain areas of
25 the Borough, and acquiescence in that opposition --

1 opposition by Borough officials.

2 Now, were you aware that Judge Harris
3 had made that subsequent ruling criticizing Emerson
4 and suggesting that its actions have exacerbated --
5 that -- that it has, quote, relentlessly preserved
6 and exacerbated economic and class segregation? Are
7 you aware that he made that ruling?

8 A. I don't think I've ever seen that
9 document before.

10 Q. So you didn't know that he had made this
11 ruling against Emerson?

12 MR. SEAMAN: Objection to form.

13 A. I don't know. I've -- I've never seen
14 that document.

15 Q. No. I know that. But whether you saw
16 it or not, were you nonetheless aware that the Judge
17 made this second ruling, which suggested that Emerson
18 had engaged in -- in -- engaged in this pattern of
19 conduct -- pattern of exclusionary -- exclusionary
20 efforts?

21 A. Not aware.

22 Q. Okay. So when you got on the council,
23 you didn't become aware of that?

24 A. I don't recall.

25 Q. Just refresh me: When -- when did you

1 get on the council?

2 A. 2008, '9, '10. Something like that.

3 Q. Okay. So when you got on, you were not
4 aware and didn't look into the background of this
5 exclusionary zoning problem -- problem that --

6 A. No.

7 Q. -- Emerson -- you gotta let me finish.
8 You're answering before I finish.

9 The exclusionary zoning problem that
10 Emerson had, you didn't look into it?

11 A. I was not made aware of it.

12 Q. I didn't ask that. Did you -- did you
13 affirmatively, as a new member of the governing body
14 look into it, delve into it, so you could understand
15 the problem facing the community so you, as a
16 governing body member, could intelligently address
17 it?

18 A. I don't believe it being a topic.

19 Q. It wasn't a topic?

20 A. I don't --

21 Q. So you didn't --

22 A. -- recall.

23 Q. -- look into it at all.

24 A. How could I if I didn't know it was a
25 topic?

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1 Q. Okay. So then the answer is you didn't
2 look into it, correct? 'Cause you didn't know it was
3 a topic, right?

4 A. I don't know.

5 Q. Oh. I thought you said how could you
6 because you didn't know about it. It wasn't even a
7 topic. By that, did you mean because it wasn't a
8 topic, you did not explore and examine the background
9 of Emerson's noncompliance with Mount Laurel? Is
10 that true?

11 A. I -- I don't recall.

12 Q. Okay. So the Judge goes on. He says,
13 In -- quote, In my October 2001 opinion, I cataloged
14 a variety of missed opportunities, failure of will
15 and lack of resolve by governmental actors spanning
16 decades regarding the Borough's obligation to provide
17 a realistic opportunity for low and moderate income
18 housing.

19 So again, I don't want to -- I don't
20 want to repeat this. You -- you didn't know anything
21 about these statements that the Judge had made at
22 that time, right?

23 A. I -- what year is this document?

24 Q. This is 2001.

25 A. I wasn't involved in the Borough at that

1 time.

2 Q. Oh. Excuse me. 2002.

3 A. I wasn't involved at that time.

4 Q. Right. And you didn't come to learn
5 about them later on when you either became a member
6 of the council or when you became the mayor of the
7 community, correct?

8 A. I've never seen this document before.

9 Q. Right. I know that. But you didn't
10 become aware, generally, of these decisions whether
11 you actually read the document.

12 A. I don't recall.

13 Q. Did you become aware from any source,
14 whether you read this document or not, that the
15 courts had been critical of Emerson?

16 A. Only of Judge Harris's initial opinion
17 with the word "bastion."

18 Q. Right.

19 A. I've heard that.

20 Q. Okay. And did you -- and -- and I know
21 that we talked a little bit about how Former Mayor
22 Lamatina put on the website a history of the Mount
23 Laurel where he cited to different things, but you
24 never read any of that, as you told me, because you
25 couldn't believe a word he said, right?

1 A. Correct.

2 Q. Okay. So you don't know whether in
3 those communications with the -- the members of the
4 public he attempted to give an explanation for why
5 Emerson had to move forward with fulfilling this
6 Mount Laurel obligation. You don't know if he did
7 that or not, correct?

8 A. I -- I don't understand your question.

9 Q. Well, since you didn't read what he
10 wrote, you don't know if he was telling the public
11 why Emerson had to do the things they were doing to
12 comply with Mount Laurel, correct?

13 A. I don't think a lot of people wrote what
14 he post- -- read what he posted.

15 Q. I didn't ask that, though, did I? I
16 asked whether you -- because you didn't read what he
17 wrote, understanding you gave me the reasons why, you
18 were not aware of some of the history he tried to
19 explain, correct?

20 A. I -- I don't know.

21 Q. Did you care about the history of the
22 Mount Laurel obligation?

23 MR. SEAMAN: Objection to form.

24 A. I don't know.

25 Q. Did you care when you became a member of

1 the governing body whether -- whether Emerson was in
2 compliance with its Constitutional obligations that
3 were identified by Judge Harris?

4 MR. SEAMAN: Objection to form.

5 A. I don't know how to answer.

6 Q. Why? I just asked whether you cared.

7 A. Because this wasn't the only topic that
8 I had to learn being a new councilperson.

9 Q. Oh, of course it wasn't. But I'm asking
10 on this topic, did you care --

11 A. I --

12 Q. -- about this topic?

13 A. I don't remember at the time if I cared
14 or not.

15 Q. Okay. So you don't remember if this was
16 an important topic at that time?

17 A. I don't.

18 Q. Did it become an important topic at any
19 time?

20 A. Only when Lamatina was trying to push
21 through the 419 development.

22 Q. And Lamatina was trying to push through
23 the 419 development as part of the settlement of the
24 Mount Laurel litigation, right?

25 MR. SEAMAN: Objection to form.

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1 A. So he claims.

2 Q. Well, do you deny that? Do you deny
3 that 419 -- when you say he tried to "push it
4 through," that Block 419 was a part -- a central part
5 of the Settlement Agreement that gave Emerson all
6 those benefits that we discussed the last time? Do
7 you deny that?

8 A. I know that.

9 Q. Okay. So when you say he was trying to
10 "push it through," given that the courts had found
11 Emerson to be a bastion of exclusionary zoning, that
12 it engaged in a consistent and extreme pattern of
13 exclusionary efforts which had the effect of
14 exacerbating economic and class segregation, did you
15 think it was in the interest of Emerson when you
16 became a member of the governing body to now address
17 those problems that were recognized by the courts?

18 A. I've never --

19 MR. SEAMAN: Objection to form.

20 A. -- heard the statement that you just
21 read.

22 Q. No. I know that. But I'm asking, did
23 you think it was important as a member of the
24 governing body to address the problems that were
25 created by the prior Harris ruling?

1 A. I don't know.

2 MR. SEAMAN: Objection to form.

3 Q. You don't know if you thought it was
4 important?

5 A. I -- when you're first a councilperson,
6 you don't know what's important when you're first
7 learning --

8 Q. Well, that's why you try to --

9 A. -- what the issues are.

10 Q. That's why you try to educate yourself,
11 right?

12 A. I can't educate myself on stuff that I
13 wasn't made aware of.

14 Q. Well, no, of course. When you're a
15 member of the governing body -- and at some point in
16 time the Settlement Agreement was being discussed and
17 you voted on it, right?

18 A. That was a long time --

19 Q. Well --

20 A. -- into it.

21 Q. Okay. But you -- you made yourself
22 aware of the issue by then, correct?

23 A. Our lawyers explained to us --

24 Q. Right.

25 A. -- what was going on.

1 Q. Did you make yourself knowledgeable
2 about the history of the Mount Laurel noncompliance
3 at the time the Settlement Agreement was proposed to
4 the governing body?

5 A. I don't know how to quantify what you
6 think was -- did I make myself knowledgeable.

7 Q. Well, did you read about it? Did you
8 investigate it? Did you ask anybody for information
9 about it? Did you do anything to make yourself
10 knowledgeable?

11 A. Yes.

12 Q. Okay. What did you do?

13 A. I asked our attorneys a lot of
14 questions.

15 Q. Okay. And did they provide you with
16 answers?

17 A. Some.

18 Q. Okay. And did you understand that as a
19 result of the prior issues that arose going all the
20 way back to 2001 that Emerson really was kind of
21 between a rock and a hard place?

22 MR. SEAMAN: Objection to form.

23 A. I -- I don't know that I was cognizant
24 of that.

25 Q. Did you know that Emerson didn't have

1 many options?

2 A. I don't know.

3 Q. What options did Emerson have other than
4 entering into the Settlement Agreement as you
5 understood it?

6 A. I -- I don't know.

7 Q. Judge Harris went on on March 21, 2002
8 to state, quote, I remain dumbfounded that, not
9 withstanding all the accumulative history of this
10 State's exclusionary zoning litigation and the perils
11 attended thereto, that Emerson appears to have
12 overlooked its lessons, and is consigned to repeat
13 the costly blunders of the past, end quote.

14 So you weren't aware that the Court said
15 that either, right?

16 A. No.

17 Q. And so none of this -- the decision that
18 we just marked here wasn't part of the facts that
19 informed your decision whether to approve or not
20 approve the Settlement Agreement?

21 A. Can you say that again?

22 Q. Yeah. When the Settlement Agreement
23 vote came that we talked about last time, you're
24 saying you didn't know anything about this decision,
25 right?

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1 A. This document? No.

2 Q. No. Not the document. Either the
3 actual document or no one related to you the
4 substance of this subsequent decision, you didn't
5 know about --

6 A. I don't know that I'm --

7 Q. -- correct?

8 A. Excuse me. I don't understand what
9 you're getting at.

10 Q. I'm trying to find out if when you voted
11 on this if you knew that Judge Harris had made a
12 second ruling in which he made these --

13 A. No.

14 Q. -- highly critical comments about
15 Emerson's exclusionary zoning trying to segregate --
16 engage in segregation. Did you know any of this?

17 A. I don't recall. I don't recall these
18 being brought to my attention, no.

19 Q. Uh-huh. Now, when -- when you became
20 the mayor, one of the first things you did was to
21 clean house, right?

22 A. No.

23 Q. You got rid of old professionals and you
24 brought in new, correct?

25 MR. SEAMAN: Objection to form.

1 A. I -- I don't know that I got rid of
2 everyone.

3 Q. Okay. Well, did you get rid of the
4 engineer?

5 A. Yes.

6 Q. The architect?

7 A. Yes.

8 Q. The planner?

9 A. Yes.

10 Q. The attorney?

11 A. Yes.

12 Q. Who didn't you get rid of?

13 MR. SEAMAN: Objection to form.

14 A. There were a lot of at-will employees
15 that we didn't get rid of --

16 Q. No. No.

17 A. -- that were there.

18 Q. I'm sorry. Let me be clear. Forget
19 about the at-will; I'm talking about the
20 discretionary appointments. You -- you changed all
21 of the discretionary employees, correct?

22 A. As is customary when a new
23 administration comes in.

24 Q. You brought in your people, correct?

25 MR. SEAMAN: Objection to form.

1 A. I don't know that they were my people.

2 Q. Well, they're your people in the sense
3 that --

4 A. They were people that I felt were
5 qualified.

6 Q. Sure.

7 A. And I thought that some of the people, I
8 believe I told you before, were not qualified to hold
9 the positions that they held.

10 Q. So who -- who were the people you got
11 rid of that weren't qualified? Who wasn't qualified?

12 A. To start, Bridgette.

13 Q. Bridgette? She was the planner?

14 A. Uh-huh. Yes.

15 Q. Yes?

16 Who else? Anybody else not qualified,
17 in your opinion?

18 A. I don't know. I don't know that he
19 wasn't qualified, but I didn't agree with things that
20 he was doing. This Gary Ascolese.

21 Q. Well, I'm asking you whether --
22 Mr. Ascolese was certainly qualified, wasn't he?

23 A. I didn't agree with his decisions, so I
24 don't know how to quantify --

25 Q. Yeah. I didn't ask you that, though.

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1 A. -- whether he was qualified or not.

2 Q. And I didn't ask that, did I?

3 A. How would I know that if an engineer is
4 qualified or not other than whether or not they
5 have a --

6 Q. Well, I agree. You said a moment ago
7 some of the people weren't qualified. Your words.

8 A. I would specifically say --

9 Q. So -- so --

10 A. Bridgett, in my opinion, was not
11 qualified.

12 Q. Was Mr. Ascolese qualified?

13 A. I don't know how to answer that.

14 Q. I mean, he acted as an engineer for many
15 municipalities in Bergen County and other surrounding
16 counties. You're aware of that, correct?

17 A. I am.

18 Q. Okay.

19 A. He was a very nice man.

20 Q. Okay. And he was certainly qualified
21 whether you -- you agree with every decision he made
22 or not, correct?

23 A. Correct.

24 Q. Okay. Anyone else that was unqualified
25 other than Bridgette?

1 A. Maybe the word "unqualified" is the
2 wrong word.

3 Q. I'm sorry. It was your word. That's
4 why I was using it.

5 A. I apologize. Maybe I misspoke.

6 Q. Okay. Was she qualified?

7 A. Bridgette, I don't believe, was
8 qualified.

9 Q. When you say "not qualified," what do
10 you mean? She didn't have --

11 A. I don't --

12 Q. -- the requisite skill or competence in
13 her chosen field?

14 A. I -- I don't think that she was
15 competent, no. Not for the decisions that she'd
16 made.

17 Q. And -- and are you a -- do you have a
18 planning background?

19 A. No.

20 Q. So how do you know she's not qualified?

21 A. It's my opinion.

22 Q. Based on what?

23 A. Based on her decisions.

24 Q. What decision led you to conclude she
25 wasn't qualified?

1 A. Many decisions.

2 Q. Name one.

3 A. The fact that she thought that the
4 building was appropriate for Emerson --

5 Q. Okay.

6 A. -- in terms of planning.

7 Q. Okay. That it? Any others?

8 Well, let me ask you about that, though.
9 You said the fact that she thought the building was
10 appropriate. You mean the size of the building?

11 A. I've stated from the beginning that I
12 always thought that the building was too large for
13 our small downtown.

14 Q. Well, I -- I understand that, except the
15 Court ordered ultimately that that was the project to
16 be built given the long history of Emerson's
17 exclusionary zoning and noncompliance. Are you aware
18 of that?

19 A. I'm not sure that that statement's
20 completely true.

21 Q. Are you aware that the matter was
22 settled with Fair Housing limiting the exposure of
23 Emerson? We went over this before. You knew that,
24 right?

25 A. I don't know how to answer you.

1 Q. Did you know that the matter was settled
2 with Fair Housing? That Fair Housing said there were
3 a lot more affordable units that had to be built and
4 Emerson said we don't want to build all those units
5 and then there was a compromise reached? Did you
6 know that?

7 A. I know that this development was a tool
8 in order to satisfy our obligation and put us in
9 compliance with Fair Share and the Court.

10 Q. There you go. And part of that was this
11 building which was larger than it might otherwise be
12 because it had a Mount -- it had a -- a large Mount
13 Laurel component, correct?

14 MR. SEAMAN: Objection to form.

15 A. What's "large"?

16 Q. Well, I'm using your word again. You
17 said it was too large for the downtown area, yet that
18 was the building -- that was the size agreed upon in
19 the Settlement Agreement, wasn't it?

20 MR. SEAMAN: Objection to form.

21 Q. Wasn't it the size that was agreed upon
22 in the Settlement Agreement?

23 A. The size?

24 Q. Yes. You said it was too big, and you
25 criticized Bridgette because she allowed this

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1 building or recommended a building too big. That was
2 the building -- the size that was needed in order to
3 accommodate the 27 affordable units, correct?

4 A. I -- I think the units were needed,
5 not --

6 Q. Okay.

7 A. -- necessarily the size.

8 Q. Well, are you a planner, ma'am?

9 A. It could have been less -- there could
10 have been less market-rate units, and the building
11 could have been smaller --

12 Q. Are you a Mount Laurel expert?

13 A. -- in order -- in order to satisfy.

14 Q. Oh, you know that. So you -- you
15 actually investigated whether there were alternatives
16 to that?

17 A. I don't recall.

18 Q. In fact, you don't know anything about
19 Mount Laurel, do you?

20 MR. SEAMAN: Objection to form.

21 Q. Do you, ma'am? Are you knowledgeable of
22 Mount Laurel?

23 A. I know what the lawyers have told me.

24 Q. Are you knowledgeable of the Mount
25 Laurel doctrine?

1 A. I don't know how to answer your
2 question.

3 Q. Are you knowledgeable of the COAH
4 regulations and what they require?

5 A. I know what the lawyers have told me.

6 Q. Well, you said a moment ago it could be
7 done a different way. How do you know that unless
8 you are skilled and knowledgeable in this technical
9 area of Mount Laurel compliance. How would you know
10 that?

11 MR. BOTTA: Objection to form. You're
12 asking her questions; she's answering them.

13 Q. How would you know that?

14 A. (No response.)

15 Q. I'm waiting.

16 A. Ask your question again from the
17 beginning without, like, all of your.... Can you ask
18 the question again, please?

19 MR. FIORENZO: Can you read it back to
20 the witness, please.

21 (Reporter read back.)

22 "QUESTION: Well, you said a moment ago
23 it could be done a different way. How do you know
24 that unless you are skilled and knowledgeable in this
25 technical area of Mount Laurel compliance. How would

1 you know that?

2 A. Common sense.

3 MR. SEAMAN: Objection to form.

4 Q. Okay. So your common sense allows you
5 to express the opinion here that Mount Laurel
6 compliance could have been achieved in another way.
7 Is that right?

8 THE WITNESS: Can you repeat that
9 question again?

10 (Reporter read back.)

11 "QUESTION: Well, you said a moment ago
12 it could be done a different way. How do you know
13 that unless you are skilled and knowledgeable in this
14 technical area of Mount Laurel compliance. How would
15 you know that?

16 A. Oh. Common sense.

17 MR. FIORENZO: No. And there was
18 subsequent question I asked.

19 (Reporter read back.)

20 "QUESTION: Are you knowledgeable of the
21 COAH regulations and what they require?"

22 "QUESTION: Okay. So your common sense
23 allows you to express the opinion here that Mount
24 Laurel compliance could have been achieved in another
25 way. Is that right?"

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1 A. I don't know where the question is to
2 answer. I use my common sense when I make any
3 decisions that the governing body is faced with.

4 Q. Well, is there common sense -- you --
5 you said there were other ways it could have been
6 done. Are you telling me here today under oath that
7 you looked at this project and you evaluated it when
8 it was settled and you determined that there were
9 alternative ways of satisfying the Mount Laurel
10 obligation? Did you do that at that time?

11 A. Did I sit down and formulate a plan?
12 No.

13 Q. Did you have any opinions at that time
14 when the case was settled that there was another way
15 to achieve Mount Laurel compliance other than the one
16 in the Settlement Agreement approved by the Court?

17 A. I was of the opinion that this was the
18 path that was being taken, and I disagreed with it.

19 Q. Yeah. But I didn't ask that. Did you
20 have an alternative solution? It's easy to disagree,
21 but did you have some other solution that you had
22 evaluated at that point?

23 A. I think I explained to you before that I
24 was one vote, and I could not ask our engineers and
25 give them work to do on my loan opposition to the

1 size of the project.

2 Q. Right. But I didn't ask that. Again, I
3 asked whether you had an alternative way of
4 satisfying the Mount Laurel obligation when the
5 matter was settled other than what was in the
6 Settlement Agreement?

7 A. Yes. I --

8 Q. You did?

9 A. Yes. I said there could be more
10 market-less units -- I mean, less market-rate units
11 and that the building could have been smaller.

12 Q. Less market-rate units? Well, do you
13 know whether if there were less market-rate units
14 that would have yielded the necessary number of
15 affordable units?

16 MR. SEAMAN: Objection to form.

17 A. I don't know.

18 Q. Do you know whether under Mount Laurel
19 there's a correlation between the market-rate units
20 and affordable units?

21 A. Yes.

22 Q. Okay. So that if there are fewer
23 market-rate units, that would then mean there would
24 be less affordable units required. True?

25 A. I disagreed with the density of this

1 plan.

2 Q. No. I know that. But you're not
3 answering my question again. Could you now answer
4 the pending question: If there were fewer
5 market-rate units, would that then, under the COAH
6 regulations, yield a higher or lower amount of
7 affordable units; do you know?

8 A. The number of market rate -- the number
9 of affordable units is based on how many market
10 rates. I understand that.

11 Q. Okay. So you said they should reduce
12 the size of the building, reduce the market-rate
13 units. And what would that do to the affordable
14 units?

15 A. It would make the number go down.

16 Q. Okay. And did you have a plan for how
17 you were gonna satisfy that deficiency in the
18 affordable units?

19 A. I already told you that I didn't have
20 professionals that were working with me --

21 Q. Right.

22 A. -- and solely me to come up with a
23 different plan.

24 Q. So I take it, from that, you didn't have
25 an alternative plan. Is that correct?

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1 A. My -- I had ideas, but they were not
2 explored because I did not have the engineers and the
3 planners at my disposal.

4 Q. Okay. So you did not present and did
5 not have an alternative plan, correct, for the reason
6 you just said.

7 A. I -- I think that I made suggestions,
8 and they were not listened to.

9 Q. Okay. Identify for me each and every
10 suggestion you made that were not --

11 A. I don't recall exactly.

12 Q. Do you remember any suggestion that you
13 made that was not listened to?

14 A. That the building --

15 Q. Give me one.

16 A. -- should be smaller.

17 Q. Okay.

18 A. That the building didn't have to be one
19 full building.

20 Q. Okay.

21 A. It could have been separated.

22 Q. Any others?

23 A. That's what I recall.

24 Q. Okay. And you never contacted
25 professionals on your own to get any input or advice.

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1 A. I think I said it at council meetings.

2 Q. No. No. Independent. Did you contact
3 someone you knew, like the planner or the architect
4 or engineer that you brought in, and try to get some
5 input from somebody else on this?

6 A. I didn't really have relationships with
7 them.

8 Q. Okay. So you become mayor, and then you
9 make these various appointments.

10 MR. FIORENZO: Could you pull up,
11 please, E53D. We're gonna mark this as a new exhibit
12 number. We're gonna mark that DD-31.

13 Q. So DD-31 are Minutes of the Mayor &
14 Council meeting of January 15, 2019. That was a
15 couple of weeks after you were sworn in as mayor,
16 correct, ma'am?

17 A. It was a couple of weeks after I --

18 Q. After you were --

19 A. Yes.

20 Q. -- sworn in.

21 A. Yes.

22 Q. You -- you became mayor effective
23 January 1 of '19, right?

24 A. Yeah. I don't remember when I was sworn
25 in.

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1 Q. Whatever. But your -- your term was
2 supposed to begin on January 1 --

3 A. Correct.

4 Q. -- correct?

5 Okay. So this is like 15 days later in
6 that meeting. Let's turn to the third page under
7 Appointments and Resignations.

8 So on the bottom there is a -- there was
9 a resolution adopted -- well, actually, those present
10 were sworn into office by Mayor DiPaola. So you
11 swore in all these people on that day according to
12 the minutes. Is that correct?

13 A. It says, The present were sworn in to
14 office by mayor. Yes.

15 Q. Okay. And about halfway down that list
16 it says Resolution No. 5319, Borough Engineer,
17 Michael J. Neglia, Neglia Engineering, correct?

18 A. Yes.

19 Q. So that was the new engineer you brought
20 on, correct?

21 A. Correct.

22 Q. There is a --

23 MR. FIORENZO: Turn to the next page,
24 please.

25 A. Boswell also stayed on.

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1 Q. Well, Boswell wasn't your Borough
2 engineer; they worked for three special projects
3 noted in the resolution, correct?

4 A. Correct.

5 Q. So Boswell was no longer the Borough
6 engineer; Neglia was, correct?

7 A. Correct. But I didn't clean house as
8 you said.

9 Q. Okay. We'll let somebody else decide
10 whether you cleaned house. That will be for a jury
11 to decide.

12 MR. FIORENZO: Go to the next-to-last
13 bullet point.

14 Q. Resolution 6319, Architect: Kevin
15 Settembrino, Settembrino Architects. You brought him
16 on board. Is that correct?

17 A. We did.

18 Q. And then you also brought on a planner,
19 Christopher Statile, correct?

20 A. Correct.

21 Q. So all of those were new appointments,
22 right?

23 A. Correct.

24 Q. And when you then took over, do you
25 recall -- of course when you took over, you knew

1 about the ERUR project. You were well aware of that
2 project, correct?

3 A. Yes.

4 Q. Okay. And after you were sworn in, did
5 the developer, ERUR, undertake an effort to meet with
6 you?

7 A. Say that again?

8 Q. Yeah. Did the developer -- the
9 redeveloper undertake efforts to try to meet with you
10 once you got on board as mayor?

11 A. I believe we did meet with them.

12 Q. Okay. So who was -- who was the clerk
13 during the period of time in 2019?

14 A. Jane Dietsche.

15 Q. How do you pronounce that, De-che?

16 A. De-che.

17 Q. Okay. So in January of 2019, then, I
18 wanted to just ask you about a couple of things that
19 occurred around that time. We went over it last
20 time, but just to refresh you.

21 MR. FIORENZO: Steve, could you pull
22 that up?

23 Q. We went over it last time. There was
24 this newspaper article in which you were quoted as
25 saying, We're trying to scale this back and make it a

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1 more reasonable development.

2 Remember me going over this last time?

3 A. Yes.

4 Q. Okay. So that was January 24 of 2019.

5 Were you in communication and contact with any of the
6 tenants who were at the site that was proposed to
7 be -- to be redeveloped in January, 2019?

8 A. I don't recall.

9 MR. KLEIN: This will be DD-32.

10 Q. Do you recall Ms. Dietsche discussing
11 with you an inquiry from Dominick Scala --

12 A. I don't recall.

13 Q. -- in January of 2019?

14 You -- you knew Mr. Scala you told me
15 last time, right?

16 A. I know Mr. Scala.

17 Q. According to Ms. Dietsche's email, she
18 says, Good morning Dominick, Per your request, please
19 find the attached information you were seeking
20 regarding Block 419. If you need anything further,
21 please let me know.

22 What -- why were you providing that
23 information to Mr. Scala at that time?

24 A. I have no idea. I don't know what he
25 asked for.

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1 Q. So you weren't aware of this
2 communication?

3 A. I don't recall.

4 Q. Did Ms. Dietsche tell you in January
5 that Mr. Scala was seeking information regarding the
6 development?

7 A. I don't recall.

8 Q. The --

9 A. This document doesn't contain his
10 request.

11 MR. FIORENZO: Scroll down. Scroll to
12 that. Yeah.

13 Q. There's a string of emails here. The
14 one at the bottom, he's asking for information. You
15 see that?

16 A. Yes.

17 Q. And then there's a response to that on
18 January 23rd, and Jane says, Hi Dominick. I love
19 your email address! I was gonna ask you which
20 property you wanted square footage of, but Mayor
21 DiPaola just walked in --

22 A. Okay.

23 Q. -- and said she thought you wanted the
24 square footage for all of Block 419.

25 How would you know that?

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1 A. I don't -- I don't recall how I would
2 know that back then.

3 Q. The only way you would --

4 A. But clearly I said it because she
5 wouldn't lie.

6 Q. Yeah. But the only way it would seem
7 you would know that is you must have had some
8 conversation with Mr. Scala about that, correct?

9 A. I don't recall.

10 Q. Did you have any conversation with
11 Mr. Scala shortly after you became the mayor where
12 you indicated to him you would try to do what you
13 could to help him?

14 A. I don't recall. I don't think so.

15 Q. You don't think you said to him in words
16 or substance you'd do whatever you could as the mayor
17 to try to help him?

18 A. I don't recall.

19 Q. You were against condemnation. We went
20 over this last time, right?

21 A. Yes.

22 Q. And so you were very much opposed to him
23 being forcibly pushed out of that location, correct?

24 A. By eminent domain, yes.

25 Q. Right. Right. And he was someone who

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1 you frequented that store from time to time, as you
2 told us, correct?

3 A. To buy cigarettes, yes.

4 Q. Yes. And so you knew him, correct?

5 A. Yes.

6 Q. Yeah. Okay. So when -- other than --
7 other than this communication in January, did you --
8 do you recall any other contacts or communications
9 you had with Mr. Scala in January of 2019 regarding
10 the concept of eminent domain?

11 A. I don't recall.

12 Q. Do you remember January 25 the Court
13 entered the conditional final judgment of repose in
14 this case?

15 A. I know it came in January.

16 Q. Right. So let me pull that up. We
17 marked this as DD-13 just for context.

18 So on January 25, Judge Padovano entered
19 this judgment, and you were -- as the mayor, of
20 course, you became aware of this around that time,
21 correct?

22 A. Correct.

23 Q. Okay. And did you have an understanding
24 of what that judgment meant?

25 A. As explained to me by the attorneys,

1 yes.

2 Q. Did you read the judgment?

3 A. Yes.

4 Q. Okay. Did you know what the word
5 "repose" meant?

6 A. I think it was explained by the
7 attorneys.

8 Q. Well, what did you understand "repose"
9 to mean?

10 A. I -- I don't know.

11 Q. You don't know?

12 A. I don't think I could tell you right now
13 what re- -- that means.

14 Q. Did you ever know?

15 A. It was explained at some point by our
16 attorneys, but we haven't discussed it in a long
17 time.

18 Q. Well, did you understand it when it was
19 explained to you?

20 A. I don't recall.

21 Q. You don't recall if you understood what
22 the term "repose" meant?

23 A. I don't recall.

24 Q. Okay. Well, as the mayor of the
25 community, I'm -- I'm sure it was important to you to

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1 understand what your legal duties and obligations
2 were under that judgment, correct?

3 A. Yes.

4 Q. Okay. And did you understand that this
5 judgment was, quote, conditional as it says under
6 civil action?

7 A. Yes.

8 Q. It was conditioned on a number of
9 things?

10 A. Yes.

11 Q. Including Emerson's compliance with the
12 Settlement Agreement that was reached, correct?

13 A. Yes.

14 Q. Okay. So after this happens --
15 actually, shortly after that, do you remember
16 Mr. Klugmann reaching out to you and your
17 representatives to meet with you?

18 A. I don't recall.

19 Q. Okay.

20 MR. KLEIN: This will be DD-33.

21 Q. So -- so it looks like on February
22 11th -- actually, even before that.

23 MR. FIORENZO: Can you scroll down,
24 Steve. Is there an email below that?

25 The earlier one, February 5.

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1 Q. Okay. So it looks like on February --
2 as early as February 5, 2019, there was an email sent
3 to you by Joseph Paparo, who was the attorney for
4 Mr. Klugmann.

5 Did you understand who Mr. Paparo was?

6 A. It says he was cc'ed.

7 MR. SEAMAN: I think you're mis- --

8 Q. You're right. You're right. It was
9 from Mr. Klugmann -- excuse me -- to you, copied to
10 Mr. Paparo. And he says, Hi. Thank you for taking
11 my call. Please let me know when works for you and
12 your team to meet.

13 So he -- he wanted to sit down and meet
14 with you about the project, correct?

15 A. I guess.

16 Q. Remember speaking to him?

17 A. I don't.

18 Q. Remember anything you discussed in that
19 phone call?

20 A. I don't recall specifically.

21 Q. Okay. Well, again, just so the record
22 is clear, when you say you "don't recall
23 specifically," when I asked if you can remember the
24 conversation, I mean do you remember the actual words
25 spoken or the substance of the phone call in any way?

1 A. I don't remember the conversation. I
2 don't remember the phone call. I don't remember
3 anything. It was at least four years ago if not
4 more.

5 Q. That's fine. All right.

6 MR. FIORENZO: Scroll up to February 11,
7 please.

8 Q. It looks like Mr. Klugmann again writes
9 on February 11, six days later, Just following up if
10 there's been any movement. Please let me know.

11 Did you receive that?

12 A. I guess I received it. I don't know.

13 Q. Okay. And then you respond to that
14 advising Mr. Klugmann you haven't been feeling well.
15 What's your availability next week?

16 You asked Mr. Klugmann, right?

17 A. "This week" it says.

18 Q. "This week," right. So did you meet
19 with him that week?

20 A. I don't recall.

21 Q. Do you remember when you finally got
22 around to meeting with him?

23 A. Not specifically, no.

24 Q. Okay. Did....

25 MR. FIORENZO: Is that it?

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1 MR. KLEIN: Yeah. This will be DD-34.

2 Q. Okay. Were you --

3 MR. FIORENZO: Go to -- Steve, I don't
4 think that's what I'm looking for. That's 2021.

5 MR. KLEIN: Okay.

6 MR. FIORENZO: That's the wrong
7 document. It's February 11.

8 THE WITNESS: Excuse me.

9 Q. Okay. We're --

10 MR. FIORENZO: Can you mark that,
11 please.

12 MR. KLEIN: Yes. This will be DD-34.

13 Q. So there's an email from you on February
14 11, 2015 to Richard Sheola. He was the administrator
15 at that time, correct?

16 A. Part-time.

17 Q. Part-time. Together with a number of
18 others. And in this email, you say -- the subject is
19 the Ambulance Corps. I did not add this to the next
20 agenda or even March 5th. I feel there are other
21 issues as well as multiple other projects that need
22 to be dealt with more quickly.

23 Was -- was one of those projects that
24 had to be dealt with the ERUR project?

25 A. Can I just read this whole --

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1 Q. Yeah.

2 A. -- page before....

3 Q. Yeah.

4 MR. SEAMAN: Steve, is that the complete
5 email chain that's up there or is that --

6 MR. KLEIN: Just the one.

7 MR. SEAMAN: Could she look at the whole
8 document then.

9 A. (Witness reviewing exhibit.)

10 Q. You're welcome to read whatever you
11 want, but I'm -- what I'm focusing on in the moment
12 is the -- the email that refers to the 19th of March.

13 A. I'm trying to put this in context.

14 Q. Go ahead.

15 A. (Witness reviewing exhibit.)

16 Okay.

17 Q. Okay. So my question was what are --
18 what are the -- February 11th you've been mayor for a
19 little over a month, and you make reference to -- you
20 say, Contact needs to be made with the developer to
21 understand exactly what's going on with the 419
22 project and what the timetable is, and it goes on.

23 My question to you is, what were the
24 multiple other projects that needed to be dealt with
25 more quickly that you were referring to?

1 A. I don't recall.

2 Q. Do you remember any of the projects that
3 had to be dealt with quickly?

4 A. I think you're reading this email out of
5 context.

6 Q. Well, I'm reading where it says "other
7 projects had to be dealt with more quickly." That's
8 what I'm reading. That's what it says.

9 A. Right.

10 Q. Were there other projects?

11 A. And I'm referring to the movement of the
12 Ambulance Corps out of the Ambulance Corps building,
13 not the project -- not the 419 project.

14 Q. Well, you do refer to 419 specifically.

15 A. Yeah. But I'm not specifically talking
16 about the project. When I say that there are other
17 products (sic) that need to be dealt with more
18 quickly, my -- what -- you're taking it completely
19 out of context.

20 Q. What are the multiple other projects you
21 were referring to?

22 A. It -- it doesn't matter what the other
23 projects were.

24 Q. Well, whether it matters or not, that's
25 what I want to know.

1 A. What I was referring to was moving EVAC
2 out of the building.

3 Q. I --

4 A. That's what I was referring to when I
5 said "other projects."

6 Q. I know that, okay. So just now answer
7 my question. When you said, I feel there are other
8 issues as well as multiple other projects that need
9 to be dealt with more quickly, more quickly than
10 what?

11 A. More quickly than getting EVAC out of
12 their building --

13 Q. Okay.

14 A. -- and displacing them.

15 Q. Good. So what were the other
16 projects --

17 A. That, I don't recall.

18 Q. -- that needed to be dealt with more
19 quickly?

20 A. That, I don't recall.

21 Q. Okay. You don't remember any of them?

22 A. No.

23 Q. Okay. Now, when -- when you were
24 communicating at this point, did there come a time
25 that you asked Mr. Sheola to set up a meeting with

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1 Mr. Klugmann?

2 A. I don't recall.

3 MR. KLEIN: DD-35.

4 Q. Do you recognize DD-35?

5 A. (Witness reviewing exhibit.)

6 Q. It's a series of emails between
7 Mr. Klugmann and Mr. Sheola.

8 A. I see it, but I don't recall it.

9 Q. He's asking to meet on March 4.

10 Mr. Klugmann. You see that?

11 A. Correct. Yes.

12 Q. And Mr. Sheola is responding. He -- he
13 writes to Mr. Klugmann up top, and he says -- he
14 says, I haven't been brought up to speed on the
15 project and that will occur sometime next week. I
16 request holding off the March 4th meeting until
17 possibly later that week to the following.

18 Did he discuss this with you?

19 A. I don't recall.

20 Q. Sheola, I mean.

21 A. I don't recall.

22 Q. Did you ask Mr. Sheola to put off the
23 meeting?

24 A. I don't recall.

25 Q. Did you know why Mr. Klugmann wanted to

1 meet?

2 A. No. Mr. Sheola was part-time, so he may
3 have needed more time. I don't know.

4 Q. But you don't know. Are you guessing?

5 A. He says he hasn't been up to speed on
6 the project, and that will occur sometime next week.

7 Q. Okay.

8 MR. FIORENZO: Pull up the next one,
9 please.

10 A. So that was on a Friday, so he was
11 asking that when he came back to work on Monday that
12 he would be brought up to speed.

13 Q. Uh-huh.

14 A. I'm just reading. I'm not remembering.

15 Q. Do you recall shortly thereafter on
16 February 25th, 2019, a letter was sent by
17 Mr. Klugmann's attorneys at Porzio, DD-36.

18 A. I don't remember, but I see it.

19 Q. Okay. Who is Mr. McCann?

20 A. Borough attorney.

21 Q. Okay. In the second paragraph of the
22 letter, Mr. Paparo, writing to your town attorney
23 says, quote, It is critical that a meeting be
24 scheduled with my client and the Borough as soon as
25 possible so we can provide the Borough with an update

1 concerning the project in general, and specifically
2 the status of closing on the parcels and
3 tenant-related issues. Over the passing weeks, my
4 client and I have made multiple requests to Borough
5 officials and consultants for such a meeting with no
6 success.

7 Did you see this letter around that
8 time?

9 A. I don't recall.

10 Q. Did you have a discussion with anyone
11 within Emerson regarding the developer's position
12 that he'd been trying to meet without success over
13 the last several weeks?

14 A. I don't recall. Is there a second page
15 to this letter?

16 Q. No. But it shows you were copied on it.

17 A. Okay.

18 Q. So you did receive it, right?

19 A. It says that I did.

20 Q. So you were aware that the developer was
21 expressing a concern about trying to set up a meeting
22 over several weeks, right?

23 A. I don't think Matthew Gilson was ever
24 our attorney, though.

25 Q. I didn't ask about Matthew Gilson,

1 though, did I?

2 A. I know. Well --

3 Q. Did I ask about Matthew Gilson?

4 A. I'm reading this, and you're asking --

5 Q. Did I ask about Matthew Gilson?

6 A. You're asking me --

7 Q. I asked -- I asked whether you received
8 this.

9 A. You're asking me about the legitimacy --

10 Q. No. No. I'm asking --

11 A. -- of asking questions about a
12 document --

13 Q. I'm not asking you about Matthew Gilson.

14 A. -- and I'm reading it, and it doesn't
15 make sense to me.

16 Q. I'm not asking you about Matthew Gilson;
17 I'm asking whether when you received this letter you
18 were aware that there was a concern being expressed
19 that the redeveloper was trying to set up this
20 meeting for several weeks.

21 A. I don't --

22 Q. Were you aware of that?

23 A. I don't recall.

24 Q. Okay.

25 MR. FIORENZO: Let's just go back up.

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1 Let's go back up to the letter again, the third
2 paragraph. Could you make that bigger?

3 Q. He goes on to say, As you are certainly
4 aware, the Redevelopment Agreement between the
5 Borough and the Redeveloper requires the Borough to
6 cooperate fully with the redeveloper in furtherance
7 of the project regardless of how unpopular the
8 project may be with the new Administration. The
9 Borough's obligations concerning the project also
10 flow from the Affordable Housing Settlement as the
11 project was the key -- key element to the settlement.

12 So you're aware at that time that
13 Mr. Paparo was reminding you, among others, of the
14 Borough's obligation to cooperate under the
15 Redevelopment Agreement?

16 MR. SEAMAN: Objection to form.

17 A. We always cooperated.

18 Q. Someone will decide that, but were you
19 aware that you had a duty to cooperate?

20 A. Yes, I was.

21 Q. And that -- that duty to cooperate was
22 contained in the Redevelopment Agreement in writing,
23 was it not?

24 A. Yes, it was.

25 Q. Okay. It also required, among other

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1 things, for the town to respond quickly to requests
2 of the redeveloper --

3 A. I believe --

4 Q. -- correct?

5 A. I believe we did.

6 Q. Okay. Well, I'm not asking whether you
7 did; I'm asking whether you understood it required
8 you to do so, right?

9 A. I guess.

10 Q. Okay. Whether you did or didn't, that
11 will be the subject of some discussion.

12 A. I guess.

13 Q. Yeah. Yeah. Okay. Did you ever
14 complain about the provisions in the Redevelopment
15 Agreement that obligated the town to cooperate and
16 give consent to the project of the redeveloper?

17 A. I don't recall.

18 Q. Is it possible you did that?

19 A. I don't recall.

20 MR. SEAMAN: Objection to form.

21 Q. I know that. Since you don't remember,
22 does that mean maybe you did and maybe you didn't --

23 A. I don't recall.

24 Q. -- you just don't remember?

25 No. I know that.

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1 MR. SEAMAN: Objection to form.

2 Q. I'm trying to hone down on what your
3 statement "I don't recall" means.

4 A. "I don't recall" --

5 Q. That -- that could --

6 A. -- means I don't recall.

7 Q. Well, I know -- I know you don't recall,
8 so that means maybe it happened and maybe it didn't;
9 you just don't remember, doesn't it?

10 A. I don't recall.

11 Q. Right. Is that what it means?

12 A. I don't recall.

13 Q. Right. Does that mean it might have
14 happened?

15 MR. SEAMAN: Objection to form.

16 Q. Can you answer my question?

17 A. I did answer. I said I don't recall.

18 Q. Does that mean maybe it happened and
19 maybe it didn't; you just don't remember?

20 A. I don't recall.

21 Q. Right. You don't remember whether if it
22 did or didn't, right?

23 A. I don't recall.

24 Q. You don't remember if it did or it
25 didn't, right? Can you answer my question?

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1 A. I --

2 Q. It's really simple. You don't remember
3 if it did or didn't, right?

4 A. I don't recall.

5 Q. Either way.

6 Can you answer the question? You're
7 still not answering it.

8 A. I -- you're putting words in my mouth,
9 and I don't recall.

10 Q. Well, that's what we do when we ask
11 questions. I'm asking you to just confirm what is
12 meant when you say you don't remember. That means
13 maybe it happened, maybe it didn't; you just don't
14 remember.

15 A. I guess.

16 Q. Okay.

17 A. I don't recall what happened.

18 Q. Now -- so after this communication from
19 counsel for the developer, did you receive further
20 communications from Mr. Klugmann trying to set up a
21 meeting?

22 A. I don't recall.

23 MR. KLEIN: DD-37.

24 Q. Okay. Thirty-seven is a letter dated
25 March 4th, 2019, and it's, again, from Mr. Paparo.

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1 He says in the first paragraph, quote -- it's to
2 Mr. McCann, your -- your attorney, correct?

3 It says, Having received no response to
4 my February 25, 2019 letter, I'm again writing to
5 request that a meeting be scheduled with the Borough
6 to discuss the status of closing on parcels and
7 tenant-related issues that require the Borough's
8 direct involvement and participation. It is
9 extremely frustrating and disappointing that no one
10 on behalf of the Borough has responded to our prior
11 requests. My client is an experienced real estate
12 developer and has worked with many municipalities on
13 similar redevelopment projects, and frankly, neither
14 my client nor I have ever encountered such a lack of
15 cooperation as we are encountering here, end quote.

16 You were copied on this letter, correct?

17 A. I don't know.

18 MR. FIORENZO: Scroll down, please.

19 Q. A copy was sent to you.

20 A. It says I was.

21 Q. Yeah. So you received this, correct?

22 A. I guess.

23 Q. Okay. And when -- when you read -- you
24 read the letter when you received it?

25 A. I -- I don't recall.

1 Q. So were you aware that the redeveloper
2 was expressing frustration and concern with the delay
3 and the need to meet with the municipality to deal
4 with certain issues?

5 A. I don't recall.

6 Q. Did you instruct your staff not to meet
7 with the redeveloper?

8 A. I didn't -- no. I did not instruct
9 anyone not to meet.

10 Q. Well, do you have any explanation for
11 why no one was responding to the redeveloper?

12 A. You'd have to ask Mr. McCann.

13 Q. No. I'm asking you --

14 A. I don't know.

15 Q. -- because you're under oath. Do you
16 know of any reason?

17 A. No.

18 Q. You.

19 Okay. Did you think it was unreasonable
20 for the redeveloper to express the concern that no
21 one was responding to him? Did you think that was an
22 unreasonable position --

23 A. I --

24 Q. -- he was taking?

25 A. I don't recall --

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1 MR. SEAMAN: Objection to form.

2 A. -- what was going on at this time. I
3 don't -- I don't know.

4 Q. Were you focused on the 419 project?

5 A. I don't recall.

6 MR. FIORENZO: Could you give me....
7 before you get to that. Before you get --

8 Q. Did -- around this time, did -- did you
9 have any conversations with Mr. Statile, one of the
10 new professionals that you had hired regarding the
11 419 project?

12 A. I don't recall. No. I don't recall
13 ever speaking to Mr. Statile.

14 Q. Do you know Caroline Rider?

15 A. Yes.

16 Q. Okay. Did you have any communication
17 with Caroline Rider around this time --

18 A. I don't recall.

19 Q. -- regarding 419?

20 A. I don't recall.

21 Q. Did you ever express to Caroline Rider
22 what it was that you wanted to accomplish this year
23 with regard to the 419 project?

24 A. I don't recall.

25 Q. Okay.

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1 MR. FIORENZO: You can pull it up.

2 MR. KLEIN: DD-38.

3 Q. So this is from Chris Statile to Rich
4 Sheola. And he says, Hi Rich.

5 Rich was, at the time, your
6 administrator, correct?

7 A. Yeah. But I'd like to make a
8 clarification. That is Caroline's email. That is
9 not Chris Statile's. Every email from Caroline came
10 from Chris Statile.

11 Q. Okay. So this -- this email then --
12 Mr. Sheola was your administrator at this time,
13 correct?

14 A. Part-time, yes.

15 Q. Okay. What -- describe what you mean by
16 "part-time"?

17 A. He worked part-time.

18 Q. How many hours a week?

19 A. I don't remember.

20 Q. And why was he part-time and not
21 full-time?

22 A. Because we were seeking a full-time
23 administrator, and he was retired --

24 Q. Uh-huh.

25 A. -- and only available to work part-time

1 per his pension.

2 Q. Okay. So in the email he -- he writes:
3 Hi Rich -- she writes. Let's assume you're correct
4 this is Ms. Rider, okay. Ms. Rider writes -- in
5 fact, it says, "Best, Caroline." So that would
6 confirm that.

7 Ms. Rider writes: Pleasure speaking
8 with you today. My contact info is below. Please
9 keep me posted on a meeting with the redeveloper.

10 So why -- do you know why she wanted to
11 be posted on the meeting with the redeveloper?

12 A. No.

13 Q. Did you ask to make sure that she was
14 present at any meeting?

15 A. I don't recall.

16 Q. She goes on to say, quote, It was -- it
17 also -- it also may also make sense for us to meet,
18 and the Mayor if she's available, to discuss what the
19 Borough wants to achieve this year, end quote.

20 Did you ever meet with her --

21 A. I don't --

22 Q. -- concerning what you wanted to achieve
23 this year?

24 A. Again, that's a separate sentence. I
25 don't think it has anything to do with the

1 redevelopment.

2 Q. Could you now answer my question? Did
3 you ever meet with her or discuss with her what you
4 wanted to achieve this year?

5 A. I don't recall.

6 Q. Had you set a goal of what you wanted to
7 achieve this year for Block 419?

8 A. That line I don't think refers to Block
9 419.

10 Q. I didn't ask you that, though. I'm
11 asking you whether you had set any goals or agenda as
12 to what you wanted to achieve for Block 419 this
13 year?

14 A. There was a signed contract. There was
15 nothing to achieve. It is what it is.

16 Q. Well, you had --

17 A. It was what it was.

18 Q. You had told the press you wanted to try
19 to scale it back. Is that one of the things you
20 wanted to achieve?

21 A. I think when I first became mayor I may
22 have asked one question as to whether or not that was
23 a possibility, and I was told emphatically no, and
24 that we would move on with the project as it was
25 written in the contract.

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1 Q. Who told you that?

2 A. Probably my attorneys.

3 Q. Probably? Do you know who told you --

4 A. I don't --

5 Q. -- or are you guessing?

6 A. -- recall specifically.

7 Q. You -- you don't know. You don't know
8 who told you that?

9 A. I -- I don't know.

10 Q. You think someone told you that you had
11 to go ahead with the project?

12 THE WITNESS: If the lawyers told me
13 something I asked them, is that attorney-client
14 privilege --

15 Q. Well, you said you didn't know --

16 THE WITNESS: -- or do I have to answer
17 it?

18 Q. -- what the lawyers told you.

19 A. I said I don't recall.

20 Q. You don't recall who told you.

21 MR. SEAMAN: Could we have a minute to
22 discuss privilege? That's what she's asking for.

23 MR. FIORENZO: Yeah. She said she
24 didn't know who told her.

25 MR. SEAMAN: Okay.

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1 MR. FIORENZO: Might have been this,
2 might have that. She doesn't know.

3 MR. SEAMAN: Can we take five minutes,
4 please?

5 MR. FIORENZO: Go ahead.

6 (Break: 11:20 a.m.)

7 (Resume: 11:25 a.m.)

8 MR. FIORENZO: You all set?

9 MR. SEAMAN: Yup.

10 MR. FIORENZO: Okay. Could you read
11 back the last question if you would, please.

12 (Reporter read back.)

13 "QUESTION: You don't recall who told
14 you."

15 MR. FIORENZO: Go back one more, please.

16 (Reporter read back.)

17 "QUESTION: You think someone told you
18 that you had to go ahead with the project?"

19 MR. FIORENZO: You know what, I'll pick
20 it up from there. I'll just reask the question.

21 BY MR. FIORENZO:

22 Q. You said that someone told you that you
23 had to go ahead and -- and comply with the
24 Redevelopment Agreement. Is that right?

25 A. Yes.

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1 Q. Who was it that told you that?

2 A. I --

3 MR. SEAMAN: Objection to form. It
4 calls for an attorney-client communications, but you
5 can answer the question.

6 Q. Do you remember?

7 A. I don't. All I recall is that I had a
8 complete understanding that the Borough had to
9 completely comply with the Redevelopment Agreement.

10 Q. The Borough had to completely comply
11 with it, right?

12 A. (Witness nods head.)

13 Q. How about the Settlement Agreement? Did
14 you have an understanding about whether you had to
15 comply with that?

16 A. You mean for the affordable housing
17 units?

18 Q. The Settlement Agreement.

19 A. With the Court.

20 Q. The settlement of the lawsuit with the
21 Court between Fair Housing and Emerson that settled
22 the litigation. Do you have an understanding that
23 you had to comply with the Settlement Agreement?

24 A. I don't specifically remember asking
25 about it.

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1 Q. Did you have understanding that you had
2 to comply with Judge Padovano's January 2019
3 conditional judgment of repose?

4 A. I -- I think I had an understanding that
5 the Judge made an order and that we had to comply.

6 Q. Right. And that order that he entered
7 was in the lawsuit that was filed by Emerson,
8 correct?

9 A. Say that again?

10 Q. The order he entered, the judgment was
11 in the lawsuit filed by Emerson, correct?

12 A. Before I was mayor, yes.

13 Q. Well, the lawsuit was instituted before
14 you were mayor.

15 A. In 2006.

16 Q. While you were on the governing body.

17 A. I don't think so.

18 Q. Okay. You don't think so?

19 A. He --

20 Q. Didn't you vote on whether or not to
21 pursue the litigation?

22 A. Which lawsuit are you talking about?

23 Q. The only lawsuit --

24 A. Are you talking about the affordable
25 housing?

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1 Q. The only lawsuit I've being talking
2 about is the one where Emerson filed suit to seek
3 protection in the matter of the application of the
4 Borough of Emerson, Bergen County for a declaratory
5 judgment which led Judge Padovano ultimately to enter
6 his judgment of repose after the Settlement Agreement
7 was reached. That's the lawsuit I am referring to.

8 A. What's the date of the lawsuit?

9 Q. Okay. I don't have it off the top of my
10 head, but I'll get it for you if you -- if you need
11 it. We went over this before. Okay.

12 Okay. July 8th, 2015. You were a
13 member of the governing body --

14 A. Oh.

15 Q. -- then?

16 A. Yes.

17 Q. So the lawsuit was instituted, as we've
18 talked about previously, because it was voted on when
19 you were at the council, correct?

20 A. Yes.

21 Q. All right. So this lawsuit then was
22 settled with a Settlement Agreement and then
23 ultimately following a Fairness Hearing, which we
24 went over last time, the judge entered his
25 conditional judgment of repose. Recall we went over

1 this?

2 A. I guess.

3 Q. Okay. And that was in January of 2019.
4 So my question is, did you understand that you had an
5 obligation to comply not only with the Redevelopment
6 Agreement, but with also the Court's conditional
7 judgment of repose settling conclusively the lawsuit?

8 A. I guess.

9 Q. Okay. And so here we are now in 2019
10 after you are the mayor. Did you at any time meet or
11 speak to any of the professionals about things that
12 you believed that they should be doing to slow down
13 the project?

14 A. Never.

15 Q. Did you ever speak with Caroline Rider
16 about things you believed that she should do with
17 respect to the project?

18 A. No.

19 Q. You never met with her concerning 419?

20 A. I don't recall.

21 Q. Uh-huh.

22 A. The only thing that was ever discussed
23 about the project once I was told that we had to
24 comply was the look of the project, which was
25 discussed in that meeting that we would have a

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1 subcommittee to discuss what -- that it looked like
2 it fit in our downtown.

3 Q. Again, that has nothing to do with my
4 question?

5 A. Well....

6 Q. I mean, you're giving me information
7 that's totally unresponsive.

8 My question: Did you speak with
9 Caroline Rider in 2019, 2020 about what, if anything,
10 she should be doing concerning the 419 project?

11 A. I don't recall.

12 Q. Okay. How about the engineer at Neglia,
13 Mr. Atkinson? Did you speak with him?

14 A. No. No. I don't think --

15 Q. You never met with either of them
16 regarding the 419 project?

17 A. I don't think so.

18 Q. She's indicating that it might be
19 helpful to meet with you to discuss what you wanted
20 to achieve this year. You're saying you never met
21 with her?

22 A. That had nothing to do with 419.

23 Q. Did you ever meet with her is the
24 only --

25 A. We met just to -- to familiarize --

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1 Q. Okay.

2 A. Like to have a ladies' lunch.

3 Q. Okay.

4 A. To work together.

5 Q. So you met with her.

6 A. We had lunch.

7 Q. Okay. You -- which means you met with
8 her, correct?

9 A. Yes.

10 Q. Other than having a ladies' lunch, did
11 you ever meet with her on any other occasion?

12 A. I don't recall.

13 Q. Did you ever meet with her in town hall
14 with others present?

15 A. I don't think so.

16 Q. Did you ever meet with her at -- at any
17 meeting in which you discussed the Block 419 project?

18 A. Maybe only as it related to the color of
19 the building.

20 Q. Okay. So your testimony is to the
21 extent there were discussions between you and
22 Ms. Rider regarding the 419 project, you only spoke
23 about the color? Is that right?

24 A. I -- I don't recall.

25 Q. Okay. So maybe you spoke about other

1 things.

2 A. No. I don't -- I....

3 Q. I thought you said you didn't remember.

4 A. I think I -- I have already told you
5 that when they came in and they approved it at the
6 Land Use board meeting that I didn't like the look of
7 the building, the way it was being built. And I
8 think the only thing that Mr. Klugmann agreed was to
9 build something that we thought would like nice in
10 our --

11 Q. Yeah. I'm gonna move to strike all
12 this.

13 A. -- downtown.

14 Q. None of this has anything to do with the
15 pending question.

16 A. I don't understand your question then.

17 Q. None of it. Okay. Could you please
18 listen to my question. I'm asking about your
19 conversations with Ms. Rider. You had a ladies'
20 lunch with her.

21 A. Yes.

22 Q. Is it your position that you never spoke
23 with her about the project --

24 A. I never --

25 Q. Let me finish. -- other than discussion

1 of the color of the building? Is that your position?

2 A. Yes.

3 Q. Okay. How about Mr. Atkinson? Did you
4 ever meet with him in 2019 or 2020?

5 A. I don't recall, no.

6 Q. Did you ever meet with him to discuss in
7 any way the Block 419 project?

8 A. No.

9 Q. Okay. So at no time did you ever have
10 any direct communications with Mr. Atkinson regarding
11 the Block 419 project?

12 A. I don't --

13 Q. Is that -- is that your testimony?

14 A. I don't think I ever had a direct
15 conversation with him other than for him to clarify
16 something that I might have read in his email.

17 Q. Did you ask him to do an examination of
18 the height of the building?

19 A. I -- I don't recall.

20 Q. Okay. So again, possible you did,
21 possible you didn't; you don't remember, correct?

22 A. I don't remember.

23 Q. Right. Which means maybe you did and
24 maybe you didn't, right?

25 A. Oh, here we go again.

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1 Q. Well, that's right. I'm asking you a
2 question to clarify your response.

3 A. I don't recall.

4 Q. You say I don't know. I believe that
5 means, if you don't recall, maybe it happened, maybe
6 it didn't. Is that what you mean when you say "I
7 don't recall"? 'Cause you can't remember yes or no.

8 A. I don't know.

9 Q. So you don't know either way.

10 A. I don't know the answer to your
11 question, did I --

12 Q. Right.

13 A. -- or didn't I. I don't know.

14 Q. And the reason you don't know the answer
15 is because you don't remember, right?

16 A. I -- I said I don't remember --

17 Q. Okay.

18 A. -- and I don't recall.

19 Q. Right. And -- and so maybe you did.
20 Maybe you did speak to him.

21 MR. SEAMAN: Objection to form.

22 Q. Right?

23 A. I don't recall.

24 Q. Okay. But it's possible you did?

25 MR. SEAMAN: Objection to form.

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1 A. I don't recall.

2 Q. Is it possible that you did?

3 MR. SEAMAN: Objection to form.

4 A. I mean, it's possible pigs are gonna
5 fall out of the sky.

6 Q. Sure. Sure.

7 A. I don't know.

8 Q. Okay. Yeah. So that means it would
9 also be possible you may have spoken to Mr. Atkinson.

10 A. I --

11 MR. SEAMAN: Objection to form.

12 A. I don't know.

13 Q. Okay. When -- did there come a time
14 when your engineer undertook an analysis of -- well,
15 withdrawn.

16 Did -- did you become aware at some
17 point in time your engineer wrote to the developer
18 concerning additional requirements that the developer
19 had to fulfill before permits would be issued?

20 A. I don't recall.

21 Q. Were you aware at some point in time
22 that the developer sought the issuance of permits?

23 A. I don't recall.

24 Q. Well, you're aware that they -- they
25 sought permits, correct?

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1 A. For what?

2 Q. Demolition --

3 A. Any permit?

4 Yes.

5 Q. -- let's start with that.

6 A. Yes.

7 Q. Okay. And you understood that -- in
8 order to get a demolition permit, what do you
9 understand had to happen?

10 A. They had to pay for it.

11 Q. Okay. Other than paying for it, what
12 did they have to do, as you understood it?

13 A. I don't know.

14 Q. Well, who --

15 A. But I know -- I know they didn't pay for
16 it for a very long time.

17 Q. Okay. Great. Other than paying for it,
18 were there any other requirements for issuing a
19 demolition permit?

20 A. I don't know.

21 Q. Well, who else knows in the Borough, if
22 not you?

23 A. The Construction Department would know.

24 Q. That's within their bailiwick?

25 A. Permits are applied for through the

1 Construction Department, yes.

2 Q. So that would be Mr. Sheola -- not
3 Sheola.

4 MR. FIORENZO: Silvio, is it?

5 MR. KLEIN: Silva.

6 MR. FIORENZO: Silva.

7 Q. Sylvia. Mr. Silva was the Construction
8 Code official in 2019, correct?

9 A. I -- I don't recall.

10 Q. Okay. He was the Construction Code
11 official at some point, correct?

12 A. At some point.

13 Q. Okay. So your testimony is the issue of
14 the -- the permits is a function of your staff and
15 the Construction Code department determining whether
16 the permit should be issued or not, correct?

17 A. The Construction Department gives out
18 the permits.

19 Q. Right. So it's their determination
20 whether the permit should be issued or not, correct?

21 A. Yes. They have to make sure
22 everything's satisfied in order to issue the permit.

23 Q. Right. And do you know what the
24 criteria are that they have to look at in determining
25 whether a permit issues?

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1 A. The only thing that I know about
2 permitting is that they need to be paid for, and that
3 the -- that a permit was not paid for --

4 Q. I got that.

5 A. -- for a very long time.

6 Q. You told me that three or four times.
7 Other than paying money --

8 A. I don't know.

9 Q. Let me finish. Please, don't interrupt
10 me. You always do it. I don't know why. Can you
11 wait till I ask a question, ma'am? Will you try to
12 do that?

13 A. I'll try.

14 Q. Good. Okay. Other than the payment of
15 money, do you know what the other criteria are that
16 your Construction Department has to use in
17 determining whether to issue a permit?

18 A. No.

19 Q. So you -- you don't have expertise on
20 that?

21 A. No.

22 Q. Okay. Did you ever speak to Mr. Silva
23 at any time regarding the Block 419 project?

24 A. Yes.

25 Q. Okay. When was the first time you spoke

1 to him?

2 A. I don't recall.

3 Q. Where was it you spoke to him?

4 A. Inside Borough Hall.

5 Q. Okay. Did you ask him to come see you?

6 A. No. I probably just saw him when he was
7 passing through.

8 Q. Okay. So what discussions did you have
9 with him regarding the Block 419 project when you
10 spoke with him?

11 A. The only time I ever recall speaking to
12 Mr. Silva was regarding the deplorable condition that
13 the building was in, that I was getting complaints,
14 and for them to clean it up.

15 Q. Okay. That's the only time?

16 A. That, and the fact that they didn't pay
17 the permits.

18 Q. That's it?

19 A. To the best of my recollection, that's
20 what I recall.

21 Q. Did you ask Mr. Silva to cite ERUR for a
22 summons?

23 A. I didn't ask him to cite it. I said,
24 I'm getting complaints. Would you take a look at it.

25 Q. Did you ask him to tag it?

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1 A. Never.

2 Q. Do you know what "tag it" means?

3 A. I -- I think it means to give them a
4 yellow tag, a warning.

5 MR. KLEIN: DD-39.

6 Q. Who's Ron Cenicola?

7 A. He works in the Construction Department.

8 Q. He works with Mr. Silva.

9 A. He did.

10 Q. Uh-huh. Did you ask him to go outside
11 and tag my client's property?

12 A. Tag it? I -- I don't -- no. I wouldn't
13 necessarily use that word.

14 Q. Well, we just discussed what it meant.
15 Did you ask him to go out and issue a summons or
16 something to that effect? Tag it? Whatever the term
17 was you might have used?

18 A. I -- I don't recall.

19 Q. Right.

20 MR. KLEIN: DD-39.

21 Q. This is an email, DD-39, from Lauren
22 Roehrer. Who is she?

23 A. The CFO.

24 Q. To Rich Sheola. Subject, 184
25 Kinderkamack. She says, Hi Rich, In case -- quote,

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1 In case I forget tomorrow, Ron Cenica -- it's
2 supposed to be Cenicola, I believe.

3 A. Uh-huh.

4 Q. -- the property maintenance officer was
5 looking for the owner above -- owner above -- above
6 the above property as the Mayor -- presumably you --
7 wants him to tag it.

8 So would you agree with me that you
9 specifically had conversations, either directly or
10 with one of your staff, to direct the Building
11 Department to tag it or to issue a summons with
12 regard to the property?

13 A. I don't recall.

14 Q. Do you deny the accuracy of that
15 statement?

16 A. I -- I don't think I ever told anyone to
17 tag anything. It's not my lingo.

18 Q. Well, whether you said tag it or issue a
19 summons --

20 A. I --

21 Q. -- or take action, do you deny the gist
22 of Ms. Roehrer's email that the mayor wanted you
23 to -- she says "tag it," but do something, right?

24 A. The only thing I ever asked anyone was
25 when I had a complaint for them to look at it.

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1 Q. Well, she said you had a complaint and
2 asked somebody to tag it. Do you deny that?

3 A. I -- I don't know what she said. I
4 didn't tell her --

5 Q. Do you deny the statement in her email
6 when she said the Mayor wants him, Ron Cenicola, to
7 tag it?

8 A. I -- I deny that, yes.

9 Q. Okay. So why do you deny it?
10 Because --

11 A. Because I wouldn't --

12 Q. -- of the term "tag it"?

13 A. Yeah. I won't understand it. I
14 wouldn't use it.

15 Q. Well -- okay. Well, what -- what words
16 did you use when you spoke to them?

17 A. I probably said that I'm getting
18 complaints about the deplorable condition that the
19 property is in and asking our property maintenance to
20 look at it. I don't know how she synthesized those
21 words.

22 Q. Well, apparently we know how she
23 synthesized it --

24 A. Well --

25 Q. -- because she said you said, Tell

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1 Cenicola to tag it. That's -- that's what she said
2 you said. Now you're denying that here under oath,
3 correct?

4 A. I don't recall saying those words, no.

5 Q. How about issue a summons?

6 A. No.

7 Q. Okay. So it -- it appears then that at
8 some point your professionals issued -- withdraw the
9 question.

10 MR. KLEIN: DD-40.

11 Q. DD-40 is a July 12, 2019 letter from
12 Neglia.

13 MR. FIORENZO: You can scroll down.

14 Q. I think it's from Mr. Atkinson who
15 signed it.

16 MR. FIORENZO: Scroll down, Steve, if
17 you would, please. Just to the signature page.

18 Q. David Atkinson. Do you know who he is?

19 A. Yes.

20 Q. Who is he?

21 A. He's our Borough engineer.

22 Q. Okay. And that's the individual I had
23 asked you about a moment ago and you -- I thought you
24 told me you had no recollection of ever having any
25 meetings or discussions with him.

1 A. I don't.

2 Q. Is that right?

3 A. I don't recall.

4 Q. Okay. So Neglia on July 12, 2019 wrote
5 a letter consisting of I think it's 32 pages.

6 MR. FIORENZO: How many pages?

7 MR. KLEIN: Twenty-two.

8 Q. Twenty-two pages. Did you see this
9 22-page letter written by Neglia?

10 A. I don't recall.

11 Q. Did you ever discuss DD-40, the Neglia
12 letter, with anyone?

13 A. Could I see the full document?

14 Q. Sure.

15 MR. FIORENZO: Why don't you pull it
16 out.

17 A. (Witness reviewing exhibit.)

18 Q. The pending question is: Did you
19 discuss the Neglia letter, DD-40, with anyone?

20 A. I don't recall.

21 Q. Did you ever -- with the benefit of
22 this, do you know what "resolution compliance" means?

23 A. The engineer, after the -- something is
24 approved and the plans are submitted, they review it
25 for compliance.

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1 Q. Compliance with what?

2 A. The Borough code.

3 Q. So you understand that engine- -- you
4 understand that resolution compliance means they
5 review it for compliance with Borough code?

6 A. Yes.

7 Q. Is that what they're asked to do here?

8 A. I -- I don't think anyone was asked; I
9 think this is just something that happens after plans
10 are submitted.

11 Q. So you don't think anyone asked Neglia
12 to do this?

13 A. I -- I just think it's part of the
14 process.

15 Q. Are you telling me that Neglia wasn't
16 requested to undertake this resolution compliance
17 review?

18 A. I didn't ask them to.

19 Q. Okay.

20 A. It's part of the process.

21 Q. Well, good. Let's start with you. So
22 you never asked Neglia, Mr. Atkinson to do this
23 resolution --

24 A. I --

25 Q. -- compliance analysis?

1 A. I don't believe so.

2 Q. And you never suggested to them issues
3 that you wanted them to look at during the resolution
4 compliance phase?

5 A. I -- I don't recall.

6 Q. And so when you said to me a moment ago
7 that you understood resolution compliance to mean
8 that they were going to review any plans for the
9 determination of whether it complied with Borough
10 codes, how did you acquire that knowledge that that's
11 what they were supposed to do?

12 A. I'm pretty sure there's a resolution of
13 compliance done for every project that goes before
14 the Land Use Department.

15 Q. Okay. But in terms of what they do to
16 determine resolution compliance, what's the basis of
17 your knowledge that they're supposed to look at the
18 ordinances of the Town to determine whether they have
19 been complied with? What's the basis for that?

20 A. The -- I don't understand your question.

21 Q. The basis for that understanding. How
22 did you acquire that understanding that that's what
23 they're supposed to do?

24 A. I -- I guess from being on the Land Use
25 Board?

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1 Q. Okay. So you never reviewed the terms
2 and conditions of this letter?

3 A. I probably did not read this whole
4 document.

5 Q. I didn't ask that. Did you review the
6 terms and the conditions of the letter?

7 A. I don't understand what that means, the
8 terms and conditions.

9 Q. Did you read the document?

10 A. I just said I don't think I read the
11 whole document.

12 Q. Well, did you read any of the document?

13 A. I probably read what was checked off.

14 Q. Okay. Probably read what was checked
15 off. When you say "checked off," let's just be clear
16 what that means.

17 A. I don't know what it means. Whether it
18 meant that it complied or it didn't comply --

19 Q. Okay.

20 A. -- because I don't recall.

21 Q. You said a moment ago that you probably
22 read what was, quote, checked off. Did you read --
23 do you know who made the checks?

24 A. I'm gonna retract that 'cause I don't
25 know what I read of this document and what I didn't.

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1 Q. Okay.

2 A. I couldn't honestly answer.

3 Q. Okay. Do you -- can you honestly tell
4 me you read any parts of this document?

5 A. I'm sure I read something, but I don't
6 recall what I did and didn't.

7 Q. When you read it, did you discuss it
8 with anyone?

9 A. I don't recall.

10 Q. Did you understand what you were
11 reading? Because it contains a number of items that
12 appear to be technical in nature.

13 A. Correct.

14 Q. Did you understand it?

15 A. I don't recall. Probably not.

16 Q. Uh-huh. And you never sought any
17 guidance from anyone as to what it meant?

18 A. I -- I don't recall.

19 Q. So turn to page 3.

20 By the way, before I do that, you -- you
21 understood that prior to this -- we went over this
22 previously -- there was, in late December, a Land Use
23 Board hearing that you attended and there was
24 testimony from different experts, including
25 Mr. Ascolese, who had submitted a report on behalf of

1 Boswell Engineering. You understood that?

2 A. Yes.

3 Q. Okay.

4 A. It was probably his review of the site
5 plan.

6 Q. Right. So Boswell had reviewed the site
7 plan and that informed the Board when they made their
8 decision, correct?

9 A. Yes.

10 Q. And so now with the appointment of
11 Neglia with him coming on, you then had someone take
12 another look at it, correct?

13 A. I -- I don't recall the -- how this
14 went.

15 Q. Well, Neglia appears to be looking new
16 at a number of issues that had been previously
17 addressed by Boswell. Would you agree?

18 A. I don't recall there ever being drawings
19 submitted to the Land Use Board. I think they were
20 like rough sketches that were approved as I recall --

21 Q. The site plan.

22 A. -- and then -- no.

23 Q. Well, the site plan --

24 A. I don't --

25 Q. -- was submitted, wasn't it?

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1 MR. BOTTA: Let her finish.

2 A. I -- I don't think it was a complete
3 site plan.

4 Q. You don't? Well, what was it?

5 A. I -- I don't recall 'cause I wasn't on
6 the Land Use Bard.

7 Q. Okay. So then you don't know what was
8 submitted.

9 A. But I do recall --

10 Q. Do you know what -- hold on. Do you
11 know what was submitted? Did they submit a site plan
12 or not?

13 A. I don't know.

14 Q. Okay.

15 A. There was a big picture of a building.

16 Q. Okay.

17 A. That's all I was able to review.

18 Q. But you don't know what the actual plans
19 were that were submitted?

20 A. I don't believe the full plans were
21 submitted.

22 Q. Well, you said you didn't know a moment
23 ago what they submitted 'cause you never saw it.

24 A. I think what I recall was the
25 agreement -- the Land Use Agreement said that the

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1 plans would comply with all Borough ordinances and
2 with the Redevelopment Plan, and I -- I don't believe
3 that a complete site plan was submitted.

4 Q. Okay. So did you -- when you appeared
5 before the Land Use Board, had you reviewed the plans
6 that were submitted: Yes or no?

7 A. Site plans for 419?

8 Q. Yes. Yes. They approved the site plan
9 which was ultimately signed and filed. Did you
10 review the site plan that was submitted --

11 A. I don't --

12 Q. -- to the Land Use Board that formed the
13 basis for their vote?

14 A. I don't think that there were full site
15 plans.

16 Q. I didn't ask that. Did you review any
17 site plan whether you considered it full or not?

18 A. I listened to the testimony and
19 commented.

20 Q. Right. So you didn't review any
21 plans --

22 A. I --

23 Q. -- at all?

24 A. I don't think so, no.

25 Q. Okay. So you don't know what was

1 submitted then, correct?

2 A. I'm -- I'm pretty sure that the --
3 the -- if I recall correctly, they did not submit to
4 the Land Use Board complete site plans.

5 Q. Yeah. But you don't know --

6 A. It was --

7 Q. -- because you didn't look at them,
8 ma'am?

9 A. It was a site plan that said that
10 everything was gonna be variance free, fit within the
11 redevelopment zone, and that is how they approved it
12 so quickly, because they did not review site plans.

13 Q. Neither did you, right?

14 A. I -- probably not --

15 Q. Right. Okay.

16 A. -- no. They didn't submit it.

17 Q. So let's stop -- let's stop there. To
18 the extent you never reviewed the site plans
19 submitted to the Zoning Board, can we --

20 A. Land Use Board.

21 Q. -- Land Use Board, can we agree then you
22 don't know what the plans were that they voted on,
23 correct?

24 A. They were spoken about.

25 Q. Yeah.

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1 A. There was an hour, hour-and-a-half
2 meeting --

3 Q. Sure.

4 A. -- explaining it.

5 Q. Okay. Good. And whatever the
6 explanation was, ultimately, those plans that were
7 explained and submitted to the Board formed the basis
8 for the vote of the Zoning Board, correct?

9 A. I guess, yes.

10 Q. Okay. And they approved it, correct?

11 A. Uh-huh.

12 Q. Yes?

13 A. Uh-huh.

14 Q. You have to answer --

15 A. Yes.

16 Q. -- yes or no.

17 A. Yes.

18 Q. Yes. Okay. And among -- among other
19 things at that hearing, there was testimony
20 regarding, for example, the height of the building,
21 correct?

22 A. Yes.

23 Q. In fact, you gave a statement in which
24 you raise questions about the height of the building,
25 correct?

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1 A. What statement?

2 Q. You -- you appeared before the Land Use
3 Board in December.

4 A. Can you give me the statement?

5 Q. Did -- did you appear before the Land
6 Use Board in December?

7 A. I made comments on it, yes.

8 Q. Right. One of the comments you made was
9 the height, correct?

10 A. Can you show me it?

11 Q. No. Do you remember?

12 A. I don't recall.

13 Q. You don't remember what you said?

14 A. I don't.

15 Q. Okay. Do you remember whether anyone
16 raised issues about the height?

17 A. I don't recall.

18 Q. But clearly the height was one of the
19 things that had to be considered by the Board,
20 correct?

21 A. The only thing I recall about the height
22 is that there were two different heights because
23 there was a dip by the railroad.

24 Q. Whatever happened, all we know is that
25 height was discussed -- height was raised by people

1 from the audience --

2 A. That's --

3 Q. -- and -- and -- let me finish. -- and
4 ultimately the Board, after consideration of all
5 that, voted to approve the plan with the height as
6 contained in those plans, correct?

7 A. I believe there was some kind of
8 discussion about where they were measuring from.

9 Q. Okay. But they approved the plans --
10 after that discussion, they approved the plans with
11 the height as reflected in those plans, correct?

12 A. Yes. But I believe --

13 Q. Okay. Thank you.

14 A. -- that it was never documented where
15 the height was being measured from.

16 Q. Right. Which is why after you became
17 the mayor you then decided you wanted to focus on the
18 height, correct?

19 A. I -- I don't recall any of this. I
20 don't know.

21 Q. You don't recall focusing on the height?

22 A. Focusing? No.

23 Q. Yeah. Didn't you ask to have the 2018
24 height ordinance reviewed because of your concern
25 about the Land Use Board approval of the height of

1 this building?

2 A. I believe what we wanted to do was
3 change the ordinance for the redevelopment zone and
4 lower it to three stories from four, and we were
5 advised by our attorney that we could do it because
6 Building 419 had the fourth story in it and that we
7 should not change any ordinances until this building
8 was completed.

9 Q. Yeah. But you wanted to change it
10 because it was -- you thought it was too high. You
11 told us that repeatedly.

12 A. Yes.

13 Q. Okay.

14 A. I've never liked the fourth story.

15 Q. Of course you didn't. Yeah. You -- you
16 made that abundantly clear.

17 MR. FIORENZO: Pull up E73, please.

18 MR. KLEIN: DD-41.

19 Q. So this appears on March 14, 2019,
20 which, by the way, I'll get to in a moment. It was
21 right around the time you were meeting with the
22 redeveloper. There's an email from Caroline to Jane
23 Dietsche, and it says, Hi Jane, the Mayor asked me --
24 so apparently you asked Caroline to do something, so
25 let's see what you asked her to do -- to -- quote, to

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1 review and adopt an ordinance that permitted a fourth
2 story in certain areas. She indicated the ordinance
3 was probably adopted near the end of 2018 (i.e.
4 November or December) however I can't find the
5 ordinance on the Borough's website where the 2018
6 ordinances are listed. Perhaps I'm missing it. If
7 you could provide any direction, I would -- I'd
8 appreciate it.

9 So this appears that in March you did,
10 in fact, speak to Caroline. Not just at a lunch, but
11 apparently you spoke to her specifically about this
12 height ordinance that you weren't too happy about,
13 correct?

14 MR. SEAMAN: Objection to form.

15 A. Yes. But you're taking it out of
16 context.

17 Q. And it's that height ordinance that
18 allowed the redeveloper to come in with its plan to
19 build four stories instead of the three that you
20 thought was more appropriate, correct?

21 A. The request to do this was for future
22 buildings, not for the one that was approved.

23 Q. Could you now answer my question?

24 A. I -- I....

25 Q. Listen to the question.

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1 A. You're taking everything out of context.

2 Q. Listen to the question and just answer
3 my question. That's how this works. Listen and
4 answer.

5 MR. FIORENZO: Please.

6 (Reporter read back.)

7 "QUESTION: And it's that height
8 ordinance that allowed the redeveloper to come in
9 with its plan to build four stories instead of the
10 three that you thought was more appropriate, correct?

11 A. I -- I don't understand that question.
12 There's --

13 Q. What don't you understand? What don't
14 you understand about the question?

15 A. I don't understand it.

16 Q. It seemed pretty plain. I'll try to
17 help you out.

18 A. Okay.

19 Q. What don't you understand about --

20 A. I'd appreciate that.

21 Q. Which of the words didn't you
22 understand?

23 A. I didn't understand -- I don't
24 understand the question. Yes, the building is -- was
25 approved at four stories.

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1 Q. Yeah.

2 A. Yes, I was against the fourth story
3 being approved in the whole redevelopment plan.

4 Q. Right.

5 A. And yes, I was trying to prevent any
6 future redevelopment in the redevelopment zone from
7 being four stories.

8 Q. So you weren't looking at this
9 fourth-story issue in the context of the 419 project?

10 A. Absolutely not.

11 Q. Could you explain to me then why your
12 engineer was directed to do so?

13 A. I have no idea.

14 Q. No idea at all? None?

15 A. Who directed him?

16 Q. You. Didn't you?

17 A. I -- I don't know. Do you have a
18 document saying it?

19 Q. Didn't you ask Neglia to look at the
20 fourth-story issue because that was the thing you
21 were most -- was most problematic about the project
22 to you --

23 A. As it relates --

24 Q. -- so you could try to -- so you could
25 try to scale it back?

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1 A. No. I -- I don't know what you're
2 talking about.

3 Q. Didn't you ask Neglia to do that?

4 A. I have no idea.

5 Q. Didn't you Atkinson to do that?

6 A. I have no idea.

7 Q. Well, let's take a look at Atkinson's
8 report.

9 MR. FIORENZO: Turn back to that,
10 please, Steve, DD-40.

11 Go to 4.1, Engineering Comments. I'm
12 sorry. Go to 4.6. 4.6.

13 Q. There's a section in the Neglia report
14 in which he is now citing to the Emerson code, the
15 building height, and he's raising a variety of issues
16 about the building height. Do you see that?

17 A. Yeah.

18 Q. Yeah. Well, that ship had sailed.
19 The -- the Zoning Board heard and considered all that
20 and granted the approval. Can you please explain to
21 me why then your engineer is attempting to again
22 revisit this issue decided by the Zoning Board?

23 A. Because I --

24 Q. Why?

25 A. -- think it was never clear, just like

1 this says, where the measurement began.

2 Q. Uh-huh. So you wanted him to go back --

3 A. Whether it was a curb, whether it was on
4 the land, whether it was -- wherever it was.

5 Q. Okay.

6 A. I didn't want him to do anything.

7 Q. Well, you know a lot about it.

8 A. I --

9 Q. Did you discuss it?

10 A. That's all I remember is that there was
11 a lot of talk before I was mayor and after I was
12 mayor about where the height --

13 Q. Yeah.

14 A. Because the -- the parking garage is
15 actually five stories, not four.

16 Q. Uh-huh.

17 A. But because of this height, which is
18 above my pay grade to understand, that it's actually
19 supposedly the same height as the fourth story, and a
20 lot of people had difficulty wrapping their head
21 around, when it was only permitted to be four
22 stories, how the parking garage was gonna be five.

23 Q. Yeah. That was addressed at the
24 hearing, though, wasn't it?

25 A. I -- I don't recall.

1 Q. That was addressed at the hearing,
2 wasn't it?

3 A. I don't recall.

4 Q. Okay.

5 A. I really don't.

6 Q. And -- so who told Neglia to kind of
7 jump back into the height issue? Who asked him to do
8 that?

9 A. I --

10 Q. Did you ask him?

11 A. -- don't think anyone asked him.

12 Q. Did you ask him?

13 A. I think when he read the plans --

14 Q. Did you?

15 A. No.

16 Q. That's my question. Did you ask him?

17 A. No.

18 MR. BOTTA: Now you're interrupting her,
19 Joe. Let her finish.

20 MR. FIORENZO: I -- I just want to know
21 if she asked him. That was the only question.

22 Q. Did you or did you not ask him: Yes or
23 no?

24 A. I don't believe I did, no.

25 Q. Okay. Do you know who in Town Hall

1 asked him to look at that?

2 A. There's a whole document here. I don't
3 think everyone sat down and asked him to look --
4 review all of this.

5 Q. Again, do you know who at Town Hall, if
6 it wasn't you --

7 A. No.

8 Q. -- who asked him --

9 A. No.

10 Q. -- to look at the height issue again?

11 A. No. No.

12 Q. Did you ask any of your staff to convey
13 to Neglia after he said --

14 A. No.

15 Q. Let me finish. -- that you wanted them
16 to again look at this height issue?

17 A. No. I already stated that I don't
18 believe that full site plans were ever submitted;
19 that they submitted them after I was mayor; and a
20 review needed to be done to make sure that the plans
21 fit into the Borough's plan because their site plan,
22 from what I recall, was only voted on based on the
23 fact that they would, in the future, submit plans
24 that fit within our ordinance and the redevelopment
25 zone. That's what I recall.

1 Q. Uh-huh.

2 A. So when the plans came in -- I do recall
3 the day they came in. They were huge.

4 Q. So you remember the plans coming in.

5 A. I -- yes. And I --

6 Q. When was that?

7 A. I don't recall when, but I remember that
8 they were big. They were very, very round like this.

9 Q. Were these construction plans?

10 A. I -- I don't know. They were just big
11 round plans.

12 Q. Do -- do you know the difference between
13 a site plan and construction plans?

14 A. No, I don't.

15 Q. All right. Do you understand that
16 before a construction permit can be issued that there
17 are construction plans that would be reviewed?

18 A. I -- no.

19 Q. You don't know. So when you were
20 talking about the plans have to be revised --

21 A. No. I didn't say revised. I said
22 reviewed.

23 Q. Well, weren't the plans reviewed by
24 Boswell prior to the vote by the Zoning Board?

25 MR. SEAMAN: Objection to form.

1 A. I'm pretty sure that I just said a few
2 times that they didn't actually put in measured plans
3 for anything just that a plan would comply with our
4 Borough ordinance and redevelopment zone and would
5 need no variance.

6 Q. Okay.

7 A. The whole thing would be variance-free.

8 Q. So the --

9 A. So they changed all the variances
10 specifically for this project so it didn't have to
11 have any kind of approval.

12 Q. Because it was a redevelopment zone and
13 because they -- because the Settlement Agreement with
14 counsel on affordable housing required higher density
15 to be affordable. So the plan that was submitted was
16 the exact same plan that was the subject of the
17 Settlement Agreement, wasn't it?

18 A. I don't know.

19 Q. Okay. Did you care? Did you care if it
20 was the same?

21 A. I didn't have a say. I wasn't --

22 Q. Did you care whether what they were
23 submitting to the Zoning Board was consistent with
24 the Settlement Agreement that had been reached or
25 not?

1 A. Did I care.

2 Q. Did you care at all about that?

3 A. I -- I --

4 MR. SEAMAN: Objection to form.

5 A. -- don't think that I was thinking about
6 it.

7 Q. Okay. So when this 22-page letter gets
8 issued by Neglia, the one you say you read parts of
9 it, did you read the part of this that relates to the
10 height?

11 A. I -- I don't recall.

12 Q. Uh-huh. Can you recall any other -- any
13 of the sections of this letter with the benefit of
14 the letter in front of you that you actually read --

15 A. I really --

16 Q. -- and reviewed?

17 A. -- don't remember.

18 Q. So after this initial 22-page letter
19 from Neglia raising all of the issues that they
20 raise, is it your testimony that at no time after
21 that did you meet and have discussions with
22 Mr. Atkinson or Neglia regarding any of these issues?

23 A. I don't believe so. I believe this is a
24 list of either omitted or negligent issues having to
25 do with the plans, things that were not pointed out

1 in the plans.

2 Q. Well, how would you know if they were
3 omitted or negligent if you didn't even review the
4 entirety of the letter as you testified under oath
5 several times now? How could you possibly know that?

6 A. 'Cause I'm reading it now.

7 Q. So you're reading it now, and from
8 reading it now -- you're -- you're turning and
9 skimming pages -- you can now tell us that there are
10 items that were either omitted or negligent in that?
11 That's your opinion --

12 MR. SEAMAN: Objection to form.

13 Q. -- on this engineering letter, ma'am?
14 Is that your opinion here today?

15 A. I'm -- I'm skimming this as you say.

16 Q. You're saying it was -- there were
17 negligent -- there were --

18 A. Or left out.

19 Q. Boswell when they submitted it were
20 negligent or they were left out. So show me where in
21 the -- in the letter that you're now reviewing for
22 the first time in its entirety, apparently, where it
23 refers to negligence or omissions.

24 A. The parking spaces to the surface lot
25 and in the parking garage should be striped in a

1 hairpin striping style to ensure the parked vehicles
2 are centered in the spaces.

3 Q. Well, that was addressed at the hearing,
4 wasn't it?

5 A. This comment has not been addressed.
6 The site plan set and architectural plan set shall be
7 revised to illustrate hairpin turns -- hairpin
8 striping within the parking lot. That, to me, looks
9 like they didn't put that --

10 Q. Right.

11 A. -- depict it on the plan, and he was
12 telling them that it was lacking and that they needed
13 to redo it.

14 Q. So this is something that he wanted to
15 have done that wasn't in the original resolution,
16 correct?

17 A. I -- I don't know.

18 Q. Okay. Well, then, you don't know.

19 MR. SEAMAN: Joe, your time is up. It's
20 seven hours.

21 MR. FIORENZO: It's not up.

22 MR. SEAMAN: Yes, it is.

23 MR. KLEIN: No, it's not.

24 MR. FIORENZO: Okay. We've been keeping
25 very close track.

1 How much do we have left?

2 MR. SEAMAN: You were at 5.3. You went
3 1.7 today.

4 MR. KLEIN: I'm keeping track of it. We
5 have -- I have it calculated right now. If you want
6 me to do that I will, because we have another hour
7 and 20 minutes.

8 MR. FIORENZO: Do we disagree?

9 THE WITNESS: Another hour?

10 MR. FIORENZO: Yeah.

11 THE WITNESS: Absolutely --

12 MR. SEAMAN: Wait.

13 THE WITNESS: I'll let you guys argue.

14 MR. BOTTA: Can we go off the record?

15 MR. FIORENZO: Yeah.

16 (Off-the-record discussion.)

17 (Break: 12:13 p.m.)

18 (Resume: 12:15 p.m.)

19 MR. FIORENZO: All right. So let's go
20 on the record. We're gonna disagree on that, and
21 we'll seek to have the witness brought back.

22 Okay. We're gonna go -- are we on?

23 THE COURT REPORTER: Yes.

24 MR. FIORENZO: Okay. So we had a
25 discussion off the record about the length of time

1 for this deposition, and the position of the
2 Defendants is that we've now reached seven hours. We
3 have a different calculation of that, so I'll let
4 Mr. Klein basically state on the record our position
5 on the -- on the question of whether we used up seven
6 hours of deposition time first. So why don't you
7 address that.

8 MR. KLEIN: Yeah. So I have timing from
9 the first day of the deposition as 10:20 to 11:50,
10 12:01 to 12:45, 1:32 to 2:10, 2:20 to 3:15 and 3:30
11 to 4:36. That gives us another thirty- -- 37
12 minutes.

13 MR. FIORENZO: With respect to the seven
14 hours.

15 MR. KLEIN: With respect to the seven
16 hours.

17 MR. FIORENZO: Okay. So we have a
18 difference of agreement with you. I understand your
19 position is you're looking at the transcripts. We
20 tried to keep it -- I mean, starting, stopping.
21 Transcripts aren't always accurate. I understand
22 your position, so we will make an application to the
23 Judge on that. We also intend to continue the
24 deposition since I'm not completed, and we'll make an
25 application to continue the deposition further so I

1 can finish my examination.

2 MR. BOTTA: All right.

3 MR. SEAMAN: I just want to indicate as
4 well that I discussed with Mayor DiPaola before this
5 about what we anticipated the time would be, and she
6 does have a hard stop for a personal reason as well
7 going forward today, so....

8 MR. FIORENZO: All right.

9 MR. BOTTA: And just to put on the
10 record, as you summarized our position, Joe, is that
11 we're going on the transcript, and our opinion is
12 that the transcript should control the timing and
13 that is where we come up with the seven hours today.

14 MR. FIORENZO: Okay. We're gonna agree
15 to disagree and leave it at that.

16 MR. BOTTA: Very good.

17 THE COURT REPORTER: Counsel,
18 transcript?

19 MR. BOTTA: Yes, please. You can
20 expedite it.

21 (Proceedings concluded at 12:17 p.m.)

22 - - - - -

23

24

25

J U R A T

I DO HEREBY CERTIFY that I have read the
foregoing transcript of my deposition testimony.

DANIELLE DiPAOLA

SWORN TO AND SUBSCRIBED

BEFORE ME THIS _____

DAY OF _____

2023

Notary Public

C E R T I F I C A T E

I, LYDIA F. McDONNELL, a Certified
Shorthand Reporter and Notary Public of the State of
New Jersey, do hereby certify that prior to the
commencement of the examination, DANIELLE DiPAOLA was
duly sworn by me to testify the truth, the whole
truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing
is a true and accurate transcript of the testimony as
taken stenographically by and before me at the time,
place, and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a
relative nor employee nor attorney nor counsel of any
of the parties to this action, and that I am neither
a relative nor employee of such attorney or counsel,
and that I am not financially interested in the
action.



Notary Public of the State of New Jersey

License No. 30XI00155900

My Commission expires June 30, 2024

Dated: May 18, 2023

ATTACH TO DEPOSITION OF: MAYOR DANIELLE DiPAOLA

DATE TAKEN: Monday, May 15, 2023

E R R A T A S H E E T

INSTRUCTIONS: After reading the transcript of testimony, please note any change, addition or deletion on this sheet. DO NOT make any marks or notations on the transcript itself.

Please sign and date this errata sheet and return it to the court reporter whose name is shown below.

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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